



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Rhode Island State Labor Relations Board

Building 73
1511 Pontiac Avenue
Cranston, Rhode Island 02920-4407

OPEN MINUTES BOARD MEETING

TIME: 9:00 a.m.
DATE: Wednesday, June 23, 2004
PLACE: 1511 Pontiac Ave., Building #73, 3rd Floor, Cranston, RI 02920

BOARD MEMBERS IN ATTENDANCE:

Walter J. Lanni, Chairman
Frank J. Montanaro
Joseph V. Mulvey
Gerald S. Goldstein
John R. Capobianco
Elizabeth S. Dolan
Ellen L. Jordan

OTHERS PRESENT:

Robyn H. Golden, Acting Administrator
Linda L. Esposito, Secretary
Margaret Hogan, Esquire

Chairman Lanni called the meeting to order in Open Session at 9:15 a.m.

All members reviewed the Open Minutes of the May 11, 2004 Board Meeting. A Motion was made by Elizabeth Dolan and seconded by Joseph Mulvey to accept the Open Minutes as written, and it was unanimously

VOTED: by all Board Members to accept the minutes as written.

The meeting continued in open session:

UNIT CLARIFICATIONS (Consent & Affidavits):

- 1 Case No. EE-3303
Narragansett School System & Narragansett Association of Clerical Technical/NEA
UNIT CLARIFICATION: Payroll Coordinator

After review of the Consent Agreement & Affidavit executed and presented by the parties, a Motion was made by Joseph Mulvey and seconded by Gerald Goldstein to acknowledge and accept the parties' agreement that the position of **Payroll Coordinator** shall be and is hereby accreted into the bargaining unit defined in Case No. EE-3303; that the position of **Accounts Payable Clerk** shall remain excluded from the bargaining unit defined in Case No. EE-3303. After discussion, all Board Members voted in favor of the Motion.

2. Case No. EE-1707A
Providence School Department & RI Council 94, AFSCME, AFL-CIO
UNIT CLARIFICATION: Assessment Specialist for Adequate Yearly Progress

After review of the Consent Agreement & Affidavit executed and presented by the parties, a Motion was made by Frank Montanaro and seconded by John Capobianco to acknowledge and accept the parties' agreement that the position of **Assessment Specialist for Adequate Yearly Progress** shall be and is hereby accreted into the bargaining unit defined in Case No. EE-1707A. After discussion, all Board Members voted in favor of the Motion.

- 3 Case No. EE-3167
Providence School Department & RI Laborers' District Council
UNIT CLARIFICATION: Fiscal Officer

After review of the Consent Agreement & Affidavit executed and presented by the parties, a Motion was made by Joseph Mulvey and seconded by John Capobianco to acknowledge and accept the parties' agreement that the position of **Fiscal Officer** shall be and is hereby accreted into the bargaining unit defined in Case No. EE-3167. After discussion, all Board Members voted in favor of the Motion.

4. Case No. EE-3077
Town of Jamestown & SEIU
UNIT CLARIFICATION: Harbormaster

After review of the Consent Agreement & Affidavit executed and presented by the parties, a Motion was made by Joseph Mulvey and seconded by Ellen Jordan to acknowledge and accept the parties' agreement that the position of Harbormaster shall be and is hereby accreted into the bargaining unit defined in Case No. EE-3077. After discussion, all Board Members voted in favor of the Motion

DRAFTED DECISIONS

1. After discussion with Attorney Hogan regarding the status of the drafting of the decisions for the following cases, a Motion was made by John Capobianco and seconded by Frank Montanaro to table the following matters until the next Board Meeting in August, 2004:

- a) Case No. EE-1707A/3167 - Providence School Board & AFSCME
- b) Case No. ULP-5506 - Bristol/Warren School Department & NEA
- c) Case No. ULP-5610 - Town of Narragansett & IBPO
- d) Case No. ULP-5657 - Department of Corrections & RIBCO
- e) Case No. ULP-5665 - Providence & Laborers' Local 1033
- f) Case No. ULP-5673 - Coventry Fire District & IAFF

All Board Members voted in favor of the Motion.

2. Case No. EE-3133
State of RI, State Properties Commission & AFSCME
UNIT CLARIFICATION: Executive Secretary - State Properties Committee

Walter Lanni recused himself from participation in this matter.

Frank Montanaro abstained from voting in this matter.

This case was heard formally by Joseph Mulvey, John Capobianco, Ellen L. Jordan, Elizabeth Dolan, and Frank Montanaro. Gerald Goldstein reviewed the transcript and the briefs submitted by the parties.

ORDER: The Petition to accrete the position of Executive Secretary - State Properties Committee to the bargaining unit certified by Case No. EE-3133 is hereby denied and dismissed as the petition was inappropriately filed under Case No. EE-3133. It was noted, however, that the investigation and information elicited through the formal hearing process indicates that the position of Executive Secretary - State Properties Committee is not confidential, supervisory, or managerial in nature and would be eligible for collective bargaining in the appropriate unit.

After review of the drafted decision, a Motion was made by John Capobianco and seconded by Ellen Jordan to sign the Decision and Order, as written. After discussion, all participating Board Members present voted in favor of the Motion and did sign the Decision and Order, as written.

2 Case No. ULP-5664
Town of West Warwick & AFSCME

This case was heard formally by Walter Lanni, Joseph Mulvey, Gerald Goldstein, Ellen L. Jordan, and John Capobianco. Frank Montanaro and Elizabeth Dolan reviewed the transcript in this case. (Oral arguments were presented in place of Briefs in this case)

ORDER: (1) The Employer is hereby ordered to pay any "higher classification" back wages due and owing to any and all Deputy Department Heads who have assumed the duties of their respective Department Head, while the Department Head has been away from the Town Hall for one (1) full day in attendance, at either an in-state or out-of-state conference, since October 1, 2002.

(2) The Employer is hereby ordered to cease and desist from failing to pay "higher classification" wages to any and all Deputy Department Heads when the Department Head is away from the Town Hall for in-state conferences, or out-of-state conferences for one (1) full day, unless and until the Employer and the Union have bargained otherwise.

After review of the drafted decision, a Motion was made by Frank Montanaro and seconded by Joseph Mulvey to sign the Decision and Order, as written. After discussion, all Board Members voted in favor of the Motion and did sign the Decision and Order, as written.

3 Case No. ULP-5681
Board of Governors (RIC) & AFT

This case was heard formally by Walter Lanni, Joseph Mulvey, Gerald Goldstein, Ellen L. Jordan, John Capobianco, and Elizabeth Dolan. Frank Montanaro reviewed the transcript and Briefs of the parties.

ORDER: (1) The Employer is hereby ordered to cease and desist, in the future, from appointing any employee to the Employer's negotiating team when: (a) A Unit clarification petition is pending before the Board; (b) The Board has made a preliminary determination to accrete the position; (c) The board has not issued a final Decision and Order; and (d) If the Board's Decision and Order is appealed, then until a final determination has been made by a court of competent jurisdiction.

(2) The Employer's Motion to Dismiss is denied.

After review of the drafted decision, a Motion was made by Joseph Mulvey and seconded by Frank Montanaro to sign the Decision and Order, as written. After discussion, all participating Board Members present voted in favor of the Motion and did sign the Decision and Order, as written.

CASES CONCLUDED:

1 Case No. EE-2087
RI Board of Governors for Higher Education (RIC) & RI College Professional Staff Association
**UNIT CLARIFICATION: Director of Health Services/Nurse Practitioner
Director of User Support Services**

This case was heard formally by Walter Lanni, Joseph Mulvey, John Capobianco, Gerald Goldstein, Elizabeth Dolan, and Ellen L. Jordan. Frank Montanaro reviewed the transcript and the briefs submitted by the parties.

After review, a Motion was made by Gerald Goldstein and seconded by Ellen Jordan to exclude the position of **Director of Health Services/Nurse Practitioner** as being ineligible for collective bargaining based on the fact that it is administrative, supervisory and managerial in nature. After discussion, Elizabeth Dolan voted in favor of the Motion. Frank Montanaro, Joseph Mulvey, John Capobianco and Walter Lanni opposed the Motion. Motion failed. A Motion was made by Frank Montanaro and seconded by Joseph Mulvey to include the position of **Director of Health Services/Nurse Practitioner** into the

bargaining unit in Case No. EE-2087. After further discussion, John Capobianco and Walter Lanni voted in favor of the Motion. Gerald Goldstein, Ellen Jordan and Elizabeth Dolan opposed the Motion. Motion passed.

After review, a Motion was made by Frank Montanaro and seconded by Joseph Mulvey to include the position of **Director of User Support Services** into the bargaining unit in Case No. EE-2087. After discussion, John Capobianco voted in favor of the Motion. Gerald Goldstein, Walter Lanni, Elizabeth Dolan and Ellen Jordan opposed the Motion. Motion failed. A Motion was made by Ellen Jordan and seconded by Gerald Goldstein to exclude the position of **Director of User Support Services** from the bargaining unit. After further discussion, Walter Lanni and Elizabeth Dolan voted in favor of the Motion. Frank Montanaro, John Capobianco and Joseph Mulvey opposed the Motion. Motion passed.

2 Case No. ULP-5689
State of Rhode Island & RI Council 94, AFSCME, AFL-CIO

This case was heard formally by Walter Lanni, Joseph Mulvey, Gerald Goldstein, John Capobianco, and Elizabeth Dolan. Frank Montanaro and Ellen L. Jordan reviewed the transcript and Briefs of the parties.

After review, a Motion was made by Frank Montanaro and seconded by John Capobianco to uphold the charge that the Employer failed to negotiate with the certified bargaining unit prior to the change to the pharmacy network. After discussion, Joseph Mulvey and Walter Lanni voted in favor of the Motion. Gerald Goldstein, Ellen Jordan and Elizabeth Jordan opposed the Motion. Motion passed.

STATUS LETTERS

1 Case No. ULP-5488
Pawtucket Water Supply Board & Teamsters Local 64

Joseph Mulvey abstained from voting in this matter.

After review, a Motion was made by Frank Montanaro and seconded by Elizabeth Dolan that the Unfair Labor Practice in regard to this case be dismissed, with prejudice, due to the parties' failure to respond to the written request(s) of the Board to advise the Board of the status of this case; said written response(s) were to have been submitted within thirty (30) days of the date of the Board's status request letter(s). After discussion, all participating Board Members voted in favor of the Motion.

2 Case No. ULP-5696/5698
Department of Corrections & RI Probation and Parole Association

After review, a Motion was made by Elizabeth Dolan and seconded by Ellen L. Jordan that the Unfair Labor Practice in regard to this case be dismissed, with prejudice, due to the parties' failure to respond to the written request(s) of the Board to advise the Board of the status of the case; said written response(s) were to have been submitted within thirty (30) days of the date of the Board's status request letter(s). After discussion, all Board Members voted in favor of the Motion.

3 Case No. ULP-5560/5567
Department of Corrections & RIBCO

After review of the correspondence received from John Turano, Esq., Office of Labor Relations, in the above-referenced case, and due to the filing parties' failure to respond to the written request(s) of the Board to advise the Board of the status of this case (said written response(s) were to have been submitted within thirty (30) days of the date of the Board's status request letter(s)), a Motion was made by Frank Montanaro and seconded by John Capobianco that the Unfair Labor Practice in regard to this case be dismissed. After discussion, all Board Members voted in favor of the Motion.

MISCELLANEOUS MATTERS:

A Motion was made by Elizabeth Dolan and seconded by Ellen L. Jordan to move Miscellaneous Matters, Section A, to the Closed Session, Miscellaneous Matters, for review and discussion. All Board Members voted in favor of the Motion.

1. Case Nos. EE-3406 & EE-3575
Department of Health & RI Council 94, AFSCME, AFL-CIO & NEARI

After review of the status of this case, a Motion was made by Frank Montanaro and seconded by Gerald Goldstein to reschedule this matter for Formal Hearing. After discussion, all Board Members voted in favor of the Motion.

2. The Chairman informed all the Board Members that Attorney Hogan's contract for Legal Services for the RI State Labor Relations Board has been renewed and signed for FY' 04-05.

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Frank Montanaro made a Motion for the Board to go into Closed Session for the purpose of reviewing Unfair Labor Practice Charges, Miscellaneous Cases and Miscellaneous Matters and the minutes to be closed, pursuant to 42-46-5(a)(2)(4) of the Open Meetings Law. It was seconded by John Capobianco, and it was unanimously

VOTED: for the meeting to go into closed session and to close the minutes.

The meeting and minutes were closed at 10:10 a.m.

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The meeting resumed in open session at 11:00 a.m. for the purposes of reading into the minutes the determinations made by the Board in Closed Session.

UNFAIR LABOR PRACTICES:

Case No. ULP-5682
Coventry Fire District & IAFF

Frank Montanaro recused himself from participation in this matter.

DETERMINATION: issue a complaint and proceed to formal hearing.

2. Case No. ULP-5695
Department of Transportation & IFPTE

DETERMINATION: issue a complaint and proceed to formal hearing.

3. Case No. ULP-5716
Town of West Warwick & RI Council 94, AFSCME, AFL-CIO

DETERMINATION: issue a complaint and proceed to formal hearing.

4. Case No. ULP-5717
Bristol/Warren Regional School Dept. & RI Council 94, AFSCME, AFL-CIO

DETERMINATION: issue a Complaint and proceed to formal hearing.

5. Case No. ULP-5706
Department of MHRH & RI Council 94, AFSCME, AFL-CIO

DETERMINATION: issue a Complaint and proceed to formal hearing.

6. Case No. ULP-5705

DETERMINATION: Table to next Board Meeting in August, 2004.

A Motion to adjourn was made by Frank Montanaro, and it was seconded by John Capobianco, and it was unanimously,

VOTED: to adjourn the meeting at 11:05 a.m.